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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/551,994	10/24/2006	Gerhard Bertlein	279336US0PCT	6459
	7590 11/17/200 AK, MCCLELLAND	EXAMINER		
1940 DUKE ST ALEXANDRIA	FREET	JOHNSON, EDWARD M		
ALEXANDRIA	A, VA 22314	ART UNIT	PAPER NUMBER	
		1793		
			NOTIFICATION DATE	DELIVERY MODE
			11/17/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com oblonpat@oblon.com jgardner@oblon.com

Office Action Summary Light Examiner Light Li			Application	Application No.		Applicant(s)			
Edward M. Johnson 1793	Office Astion Occurrence				BERTLEIN ET AL.				
- The MALING DATE of this communication appears on the cover sheet with the correspondence address — Period for Repty A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MALINING DATE OF THIS COMMUNICATION. Favoration for time may be available under the inpressions of ZFR 1-1806, in the overall because the firm and the state of the communication of ZFR 1-1806, in the overall because the firm of the state of ZFR 1-1806, in the overall because the firm of ZFR 1-1806, in the overall because the resulting date of this communication. **FIND Septod for reply is pecified above, the maximum statutory period will apply and will exples SK (\$\text{MONITS from the realing date of this communication.} **Prophy reply reply with this sect or standed period for reply is pecified above, the maximum statutory period will apply and will exples SK (\$\text{MONITS from the realing date of this communication.} **Prophy reply with this sect or standed period for reply is pecified above, the maximum statutory period of the application is pecified above. The maximum statutory period of the application is pecified above. The maximum statutory period of the application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Exparte Quayle, 1935 C.D. 11, 453 O.G. 213. **Disposition of Claims** 4)		Office Action Summary	Examiner		Art Unit				
A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extractions of them may be available under the provisions of 35° CFR 1.30(a). In no event, however, may a reply be timely filled - Explanation of them may be available under the provisions of 35° CFR 1.30(a). In no event, however, may a reply be timely filled - Fallware to reply switch the set or extended period for may will, by adultion to the communication, even if tendy filled, may reduce any explanation or poly whether the set or extended period for may will, by adultion to the communication, even if tendy filled, may reduce any extended period from a dependent even adjustment. See 37° CFR 1.704(b). Status 1)⊠ Responsive to communication(s) filled on 29 June 2009. 2a)⊠ This action is FINAL. 2b)☐ This action is non-filled or solve this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4)⊠ Claim(s) 1-18 is/are pending in the application. 4a) Of the above claim(s) is/are allowed. 5)☐ Claim(s) sand 12-18 is/are rejected. 7)② Claim(s) and 12-18 is/are rejected to. 8)☐ Claim(s) and 11 is/are objected to. 8)☐ Claim(s) and 11 is/are objected to by the Examiner. 10)☐ The drawing(s) filed on is/are: a)☐ accepted or b)☐ objected to by the Examiner. Application Papers 9)☐ The specification is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)(d) or (f): a)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152. Priority under 35 U.S.C. § 119 12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)(d) or (f): a)☐ Certified c									
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DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claims 1-9 and 12-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Leppard et al. US 5,942,290.

Regarding claim 1, Leppard discloses a process for preparation of acylphosphine oxide compounds comprising melting and then slowly cooling the melt and seeding crystals (see paragraph bridging columns 2-3).

Leppard fails to disclose external stress, shearing, and/or internal agitation.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to apply external stress, shearing, and/or internal agitation to the process of Leppard because Leppard discloses the compounds mixed in the melted state (column 2, lines 63-64), which would motivate an

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ordinarily skilled artisan to apply shearing or agitation to accomplish the disclosed mixing.

Regarding claims 2-3, it would have been obvious to one of ordinary skill to select a diameter and an optimum percentage of acylphosphine oxide including at least 85% arrived at through routine experimentation.

Regarding claims 4-8 and 12-16, Leppard discloses examples of polar solvents (column 2).

Regarding claim 9, Leppard discloses acylphosphine oxide.

Regarding claims 17-18, Leppard discloses mixing (Example 7), which would at least suggest agitation to an ordinarily skilled artisan.

Claims 1-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over DE 31 39 984 A in view of Heinz G. G O Becker et al.

Regarding claims 1-3, according to the evidence of record, specifically the foreign language references and search report, the claimed process for preparation of acylphosphine would have been obvious to one of ordinary skill in the art at the time the invention was made because it would have been obvious to one of ordinary skill to combine the teachings of DE '984 and Heinz to arrive at the claimed process (see the filed references and the German search report). Applicant is invited, but not required,

to submit an English translation of the references and/or search report above.

Allowable Subject Matter

Claims 10-11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art does not disclose or fairly suggest the specifically claimed acylphosphine oxide compounds in the process for preparing an acylphosphine oxide solid with a melting point above room temperature of the instant claims 10-11.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action

is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Edward M. Johnson whose telephone number is 571-272-1352. The examiner can normally be reached on M-F 9:30-6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Stanley S. Silverman can be reached on 571-272-1358. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Edward M. Johnson/ Primary Examiner Art Unit 1793

EMJ